

EXHIBIT E

MATTHEW RAYMOND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MATTHEW RAYMOND,

Plaintiff,

-vs-

9:18 Civ. No. 1467 (GLS)(ATB)

TROY MITCHELL, Lieutenant at Auburn
Correctional Facility, CHARLES THOMAS,
Correction Officer at Auburn
Correctional Facility, THOMAS HARTE,
Sergeant at Auburn Correctional Facility,
THOMAS PHILLIPS, Correction Officer at
Auburn Correctional Facility, THOMAS GIANCOLA,
Correction Officer at Auburn Correctional
Facility, HAROLD D. GRAHAM, Former
Superintendent of Auburn Correctional
Facility, BRIAN BAUERSFELD, Correctional
Hearing Officer of Auburn Correctional
Facility, BRIAN O'HORA, Correction Officer at
Auburn Correctional Facility, AIMEE HOPPINS,
R.N., Dr. DEBORAH GEER, and "JOHN DOE",
Correction Officer at Auburn Correctional
Facility,

Defendants.

Examination before trial of **MATTHEW
RAYMOND**, taken pursuant to Notice, taken in
the offices of ACR of WNY, 170 Franklin
Street, Buffalo, New York 14202, taken on
November 5, 2020 commencing at 10:02 a.m.,
ending at 6:53 p.m., held before Carly J.
DiNatale, Notary Public.

1 Q. Where exactly is Sherman, New York?

2 A. Chautauqua County, between Ripley and Clymer.

3 Q. Okay. C.R., your daughter, is her mother
4 Michelle Raymond?

5 A. Yes.

6 Q. Okay. So you have one child with Michelle
7 Raymond and one child with Adrian Frew?

8 A. Frew. Yes.

9 Q. Now, you mentioned earlier you're currently
10 married with Michelle Raymond. Are you two
11 actively looking to have more children?

12 A. Yes.

13 Q. Mr. Raymond, are you currently employed?

14 A. I'm on medical leave.

15 Q. Okay. You mentioned earlier that, I think it
16 was, 115 Hamilton that you have some tenants.
17 Is that a property owned by you or someone
18 else?

19 A. It's a property owned by my family.

20 Q. Okay. Do you know, like, on the deed whose
21 name is the actual owner?

22 A. I believe it would be my Aunt Tara Dudeck.

23 Q. Who is that?

1 A. I believe.

2 Q. How is that person related to you?

3 A. She's my aunt, by marriage.

4 Q. Okay. Do you rent any portion of 111 Hamilton
5 or is that a single family residence?

6 A. Single family.

7 Q. Who owns that residence, 111?

8 A. It's jointly owned by myself and my mother,
9 Sylvia Raymond.

10 Q. Where does your mother live?

11 A. My mother lives 40 -- she lives in Kenmore.

12 Q. Now, with the tenants at 111 Hamilton, do you
13 receive any of the rent that they pay? Do you
14 receive some of that income?

15 A. I do not. I -- no, I do not.

16 Q. Okay. So is Ms. Dudeck the person that
17 receives that income, that rental income?

18 A. I believe so.

19 Q. Now, you mentioned that you're not currently
20 employed, you're on medical leave. When was
21 the last time you were employed?

22 A. It would be September or August. Yeah,
23 August. Sorry.

1 Q. Of this year?

2 A. Yes.

3 Q. Okay. Where were you working?

4 A. K&S Contractor Supply, 1776 Gunville Road,
5 Lancaster, New York.

6 Q. And that's KNS?

7 A. K&S.

8 Q. Okay. And that's in Lancaster?

9 A. Yes.

10 Q. So you worked there until August. When did
11 you first start there?

12 A. I believe it was March.

13 Q. Of this year?

14 A. Yes.

15 Q. Okay. So soon after you were released?

16 A. Yes.

17 Q. Okay. What type of work were you doing for
18 K&S Contractors?

19 A. I was in their concrete pouring division.

20 Q. Okay. So were you actually out in the field
21 pouring concrete or were you in, like, a sales
22 position? What type of work were you actually
23 doing?

1 **MS. FREEMAN:** Object to the form. Time
2 frame, Pat, if you can.

3 **BY MR. MACKEY:**

4 Q. Any time from March to August, while he was at
5 the K&S Contractor.

6 A. I was in the field, and also in their
7 production factory.

8 Q. And how did you get this job at K&S? Did you
9 know someone there or was it just an open
10 availability of employment?

11 A. I was informed by a person I know in the
12 construction industry.

13 Q. Okay. So you were somewhat referred to that?

14 A. Yes. Yes.

15 Q. Now, you mentioned medical leave. Did you go
16 on medical leave in August of this year?

17 A. Yes.

18 Q. Okay. So there wasn't any job between K&S and
19 going on medical leave?

20 A. No.

21 Q. Okay. Was there any job -- any other job
22 during the period of March 2020 to August
23 2020?

1 A. No.

2 Q. Okay. What happened to cause you to have to
3 go on medical leave?

4 A. My health is declining.

5 Q. I think you're breaking up on us.

6 MS. FREEMAN: I don't want to cut off
7 your answer, Matt, but you seem to be frozen,
8 visually.

9 MR. MACKEY: I think we lost him
10 altogether.

11 (Discussion held off the record.)

12 BY MR. MACKEY:

13 Q. Mr. Raymond, when we got cut off there, I was
14 asking you why you went on your current
15 medical leave. What happened?

16 A. My health declined because of the medical
17 issues resulting from the incident on
18 September 14th, 2016.

19 Q. Can you be a little more specific? What do
20 you mean that your health declined?

21 Lost him again.

22 MS. FREEMAN: Matt, can you hear us?

23 (Discussion held off the record.)

1 there's no need for you to testify on the
2 record about your views here.

3 **BY MR. MACKEY:**

4 Q. Okay. Now, we were talking about the medical
5 leave that you went on. And that started in
6 August, correct?

7 A. Correct.

8 Q. Okay. And since August, have you gone back to
9 work at all, either with K&S or anywhere else?

10 A. No.

11 Q. Okay. And the medical leave that you're on,
12 was that instructed by your doctors?

13 A. Yes.

14 Q. Okay. Now, recently we learned that there was
15 a need for you to have surgery later this
16 month; is that correct?

17 A. Yes.

18 Q. Okay. What type of surgery is that?

19 A. It's called a bladder augmentation surgery.

20 Q. And --

21 A. There's more -- there's more words to it, but
22 it boils down to bladder augmentation.

23 Q. And what is your understanding of what a

1 Q. Mr. Raymond, on September 13th of 2014 --
2 2016, I'm sorry, during that date -- well, let
3 me back up. Any time during September 13th to
4 September 14th of 2016, did you take
5 marijuana?

6 A. No.

7 Q. Okay. Any time on September 13th or September
8 14th, 2016, did you take heroin?

9 A. No.

10 Q. Okay. Any time between September 13th and
11 September 14th of 2016, did you take Suboxone?

12 A. No.

13 Q. Okay. Any time in the month of September of
14 2016, did you take any of those three drugs?

15 A. No.

16 Q. Okay. Do you know when you last took any of
17 those drugs while you were at Auburn?

18 **MS. FREEMAN:** Object to the form. And
19 object on the basis of the Fifth Amendment.
20 Mr. Raymond, please don't answer that
21 question.

22 **BY MR. MACKEY:**

23 Q. Now, Mr. Raymond, I think you mentioned

1 earlier when you were released earlier this
2 year you came -- you were released from
3 Attica, correct?

4 A. Correct.

5 Q. Okay. Who is your parole officer right now?

6 A. On file, it's Latoya Taylor. But she's on
7 leave, and I don't remember the parole officer
8 who is handling my case in the interim.

9 Q. Latoya. What was the name? Latoya Taylor?

10 A. Yes.

11 Q. Do you remember when you last met with
12 Ms. Taylor or spoke to her?

13 A. On phone interview, because of my medical
14 condition. And the last time I spoke to
15 her -- well, to Ms. Taylor, it's been,
16 probably, a month.

17 Q. Okay. Have you spoken to any other parole
18 officers since then?

19 A. Yes. I spoke to a parole officer last
20 Thursday.

21 Q. Okay. That was the last time?

22 A. Yes.

23 Q. And do you remember that individual's name at

1 all?

2 A. No.

3 Q. Was it a male or a female?

4 A. Female.

5 Q. Okay. First name? You don't remember first
6 name?

7 A. I do not remember.

8 Q. And this was by phone?

9 A. Yes.

10 Q. How is your relationship with your parole
11 officer? Are you getting along with your
12 parole officer?

13 A. Yes.

14 Q. Okay. Have you had any problems with your
15 parole officer?

16 A. No.

17 Q. Have there been any issues that you've been
18 claimed to have violated your parole at all?

19 **MS. FREEMAN:** Objection.

20 **THE WITNESS:** Any claim or who claims?
21 I don't understand the question.

22 **BY MR. MACKEY:**

23 Q. During your discussions -- the various

1 discussions you've had with your parole
2 officer since you've been released, has there
3 been any discussions with that person that you
4 did violate or may have violated your parole
5 at any time?

6 **MS. FREEMAN:** Objection.

7 **THE WITNESS:** Possibly.

8 **BY MR. MACKEY:**

9 Q. Do you know what was the basis for that claim?

10 A. An alleged criminal activity.

11 Q. Okay. What was that?

12 **MS. FREEMAN:** Mr. Raymond, I'm going to
13 instruct you not to answer on the basis of the
14 Fifth Amendment. Mr. Mackey, I'll give you
15 some leeway here, but not much.

16 I also want to put on the record, Mr.
17 Mackey, I'm still having difficulties with
18 your audio. You remain in and out. I don't
19 know if there's any way to work with the mic
20 as Diane had suggested back at the beginning
21 of this deposition.

22 **MR. MACKEY:** Carly, are you having
23 problems hearing me?

1 **THE COURT REPORTER:** No.

2 **MR. MACKEY:** Okay.

3 **MS. FREEMAN:** Mr. Mackey, I'm also
4 participating in this deposition, and it's
5 significant that, as Mr. Raymond's attorney, I
6 can hear you. So if you could just keep your
7 voice up, and I will keep noting when I'm
8 struggling to hear.

9 **BY MR. MACKEY:**

10 Q. Yeah, you told me already.

11 Mr. Raymond, how many times -- well, let
12 me back up. You said that there's been claims
13 that there was criminal activity. How many
14 claims are there?

15 A. Two.

16 Q. Okay. Have you been arrested for either of
17 those two claims?

18 A. Yes.

19 Q. Okay. For both or just one of the two?

20 A. Both.

21 Q. Okay. And when was the first time you were
22 arrested? What month, if you recall?

23 A. I don't remember. July or August.

1 Q. Okay. So sometime during the summer?

2 A. Yes.

3 Q. Okay. What are the criminal allegations
4 against you? What are they charging against
5 you?

6 MS. FREEMAN: I'm going to object.
7 Matt, you can identify what the charges were,
8 and no more.

9 THE WITNESS: Attempted burglary third,
10 criminal mischief, petty larceny.

11 BY MR. MACKEY:

12 Q. And this was with the one that happened during
13 the summer?

14 A. Both.

15 Q. Okay. Well, let's talk about the first one.
16 What charges are related to the first arrest?

17 MS. FREEMAN: Objection. Again, Matt,
18 you can identify the charges, and no more.

19 THE WITNESS: Attempted burglary third,
20 criminal mischief and petty larceny, I
21 believe.

22 BY MR. MACKEY:

23 Q. Okay. And to what event are those charges

1 related? What burglary are the charges
2 related to?

3 **MS. FREEMAN:** Object to the form. Matt,
4 I'm going to instruct you not to answer on the
5 basis of the Fifth Amendment.

6 **MR. MACKEY:** I'm just asking about the
7 charges. I'm not asking if he did it or not.
8 I'm just asking what are the charges based on.
9 What have you -- if there's a charge of
10 attempted burglary, what burglary is
11 Mr. Raymond claimed to have conducted.

12 **MS. FREEMAN:** I'm going to object.
13 Mr. Raymond has a pending criminal case. He
14 is not going to answer this question on the
15 basis of the Fifth Amendment. He's going to
16 identify charges for you, which I believe he's
17 already done, but no more than that.

18 **MR. MACKEY:** I think a factual question
19 of what the charges are related to, what event
20 it's related to is not subject to or protected
21 by the Fifth Amendment. I'm not asking if
22 he's guilty or not. I'm just asking what are
23 the charges related to.

1 **MS. FREEMAN:** I'm not going to allow him
2 to answer that question, Mr. Mackey. He can
3 tell you what the charges are, and nothing
4 more.

5 **BY MR. MACKEY:**

6 Q. Mr. Raymond, the second arrest, when did that
7 happen, if you recall?

8 A. September, I believe.

9 Q. This past September?

10 A. Yes.

11 Q. And what are the charges related to the
12 September arrest?

13 A. I think it's criminal trespass, criminal
14 mischief, I believe.

15 Q. Any other charges, other than those two?

16 A. I don't remember. I don't remember.

17 Q. And what specific event are you being charged
18 for criminal trespassing, criminal mischief?

19 **MS. FREEMAN:** Same objection.

20 Mr. Raymond, please don't answer on the basis
21 of the Fifth Amendment.

22 **BY MR. MACKEY:**

23 Q. Okay. So we have two separate criminal

1 charges; one from the summer of 2020, one from
2 September of 2020. Are there any others or is
3 it just the two?

4 A. There are no others.

5 Q. Okay. And to your knowledge, are both of
6 those criminal charges still open? Do you
7 have court appearances for those?

8 A. Yes.

9 Q. Do you know -- related to the first charge of
10 attempted burglary third, criminal mischief
11 and petty larceny, do you know when you are
12 expected back in court?

13 A. I do not.

14 Q. Okay. And with respect to the second event in
15 September -- criminal trespassing, criminal
16 mischief -- do you know when you're expected
17 back in court for that particular charge?

18 A. I believe it's the 12th of November. I am not
19 sure which one it is, because my attorneys do
20 the scheduling. But I believe it's the 12th
21 of November.

22 Q. Okay. Do you know what that court appearance
23 is for?

1 **MS. FREEMAN:** Object to the form. Asked
2 and answered.

3 **THE WITNESS:** Maybe attempted burglary
4 third, criminal mischief, petty larceny.

5 **BY MR. MACKEY:**

6 Q. No, I'm not asking about the charges. I just
7 meant the hearing itself in November. Is it a
8 preliminary hearing? Is it a trial? I'm just
9 wondering if you know what that is for.

10 **MS. FREEMAN:** I'm going to object, Matt,
11 insofar as that knowledge comes from
12 conversations you had with your attorney in
13 that matter. If you can answer independent of
14 those conversation, go ahead. But otherwise,
15 I'll instruct you not to answer.

16 **THE WITNESS:** Yeah, I can't answer.

17 **BY MR. MACKEY:**

18 Q. Okay. Were you in court at any time for
19 charges related to the September arrest?

20 A. I actually have not been in court at any time
21 for this arrest.

22 Q. Did you appear by video or remotely for those
23 charges?

1 **MS. FREEMAN:** Object to the form. Asked
2 and answered.

3 **BY MR. MACKEY:**

4 Q. I asked him if it was in court. I'm now
5 asking him if he was there remotely at all, if
6 there was a remote conference.

7 A. No.

8 Q. Okay. With respect to parole, are you
9 required to receive any type of mental health
10 care services?

11 A. Yes.

12 Q. Okay. Through what organization are you
13 receiving those services?

14 A. BryLin.

15 Q. BryLin. Okay. How is that being conducted?
16 Do you go in personally for these services or
17 is it something you're just doing remotely or
18 over the phone?

19 A. Via phone.

20 Q. Okay. How often?

21 A. Weekly.

22 Q. And that's every since you were released?

23 A. Shortly thereafter.

1 STATE OF NEW YORK)

2 SS:

3 COUNTY OF ERIE)

4
5 I, CARLY J. DINATALE, a Notary Public in
6 and for the State of New York, County of Erie,
7 DO HEREBY CERTIFY that the deposition of
8 MATTHEW RAYMOND was taken down by me in a
9 verbatim manner by means of Machine Shorthand,
10 on November 5, 2020. That the deposition was
11 then reduced in writing under my direction.
12 That the deposition was taken to be used in
13 the above-entitled action. That the said
14 deponent, before examination, was duly sworn
15 by me to testify to the truth, the whole truth
16 and nothing but the truth, relative to said
17 action.

18 I further CERTIFY that the above-described
19 transcript constitutes a true and accurate and
20 complete transcript of the testimony.

21 
22 -----

23 Carly J. DiNatale,
Notary Public